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April 14, 1981

Mr. Peter Behrens, President
Great Salt Lake Minerals and Chemicals Corp.
P.O. Box 1190
Ogden, Utah 84402

Re: Expansion of Ponding Operations on State-Owned Lands Leased to GSL

Dear Mr. Behrens:

At your request, we have undertaken a review of the State Land Board Leases held by Great Salt Lake Minerals and Chemicals Corporation ("GSL") in light of GSL's contemplated expansion of its solar ponding operations on the Great Salt Lake. The proposed expansion has met with opposition from the Utah Division of Wildlife Resources ("Wildlife Resources").

Pursuant to our review, we have examined the following leases entered into by GSL and the State Land Board, State of Utah:

1. ML 19059, dated August 24, 1966 (Attachment A).
2. ML 21708, dated October 1, 1966 (Attachment B).
3. ML 22782, dated August 24, 1966 (Attachment C).
4. ML 24189, dated April 13, 1967 (Attachment D).

5. ML 24631, dated October 2, 1967 (Attachment E).

6. ML 25859, dated November 20, 1968 (Attachment F).

7. MLA 24881 (Attachment G). (Lease Application only; application withdrawn November 20, 1968.)

We have also examined, in the files of the Division of State Lands and among the documents you have furnished us, the following:

A. Regarding ML 21708 (Att. B):

1. Agreement, dated November 6, 1968, between Fish and Game Division, Department of Natural Resources, State of Utah, and GSL. (Att. B-1)

B. Regarding ML 22782 (Att. C):

1. Stipulation, dated April 23, 1965, executed by Lithium Corporation of America. (Att. C-1)

2. Minutes of State Land Board, dated April 23, 1965, in which the Board considers the lease application of Lithium Corporation of America. (Att. C-2)

3. Correspondence, dated October 23, 1969, from John E. Phelps, Division of Fish and Game, to Harold J. Andrews. (Att. C-3)

4. Correspondence, dated April 10, 1965, from Donald G. Prince, of State Land Board, to Utah State Department of Fish and Game. (Att. C-4)

5. Correspondence, dated April 14, 1965, from Harold S. Crane, Director of Fish and Game, to Max C. Gardner, Director, Utah State Land Board. (Att. C-5)

3. Application for Lease of Mineral Land, dated November 6, 1968. (Att. F-3)

4. Correspondence, dated November 11, 1968, from Raymond T. Senior to Harold J. Andrews. (Att. F-4)

5. Correspondence, dated November 12, 1968, from Raymond T. Senior to Harold J. Andrews. (Att. F-5)

6. Minutes of State Land Board, dated November 20, 1968, regarding the agreement noted above. (Att. F-6)

7. Correspondence, dated November 20, 1968, from Claron C. Spencer, of Senior & Senior, to Charles R. Hansen, Division of State Lands. (Att. F-7)

8. Correspondence, dated December 4, 1968, from Donald Gail Prince, of Division of State Lands, to Raymond T. Senior. (Att. F-8)

9. Correspondence, dated January 7, 1969, from Raymond T. Senior to Charles R. Hansen, Division of State Lands. (Att. F-9)

10. Correspondence, dated October 23, 1969, from John E. Phelps, Division of Fish and Game, to Harold J. Andrews. (Att. F-10)

11. Correspondence, dated May 17, 1973, from John E. Phelps, Division of Wildlife Resources, to Harold J. Andrews. (Att. F-11)

F. Regarding MLA 24881 (Att. G):

1 Agreement, dated November 6, 1968, between Fish and Game Division, Department of Natural Resources, State of Utah, and GSL. (Att. G-1)

2. Withdrawal of Application, dated November 20, 1968. (Att. G-2)

3. Correspondence, dated December 4, 1968, from Raymond T. Senior to Gail Prince, Utah State Land Office. (Att. G-3)

G. General Documents (Att. H):

1. Plat survey map, dated March 12, 1971, prepared by Great Basin Engineering & Surveying, Inc., indentifying lease locations. (Not attached)

2. Correspondence, dated July 17, 1980, from Douglas F. Day, Director of Division of Wildlife Resources to Max J. Reynolds. (Att. H-1)

3. Memorandum, dated February 27, 1981, from Stan Elmer to Gordon E. Harmston, Temple A. Reynolds, of Department of Natural Resources. (Att. H-2)

4. Memorandum, dated March 4, 1981, from Douglas F. Day, of Wildlife Resources, to Temple A. Reynolds, Department of Natural Resources. (Att. H-3)

I. Text of speech of James D. Santini (Democrat, Nev.), from American Mining Congress Journal, October, 1980. (Att. I)

GSL is Lessee of large tracts of state-owned lands under surface leases entered into with the State Land Board. The Leases are surface mineral leases for the extraction of mineral salts, chlorides, sulphates, carbonates, borates, silicates, oxides, nitrates, and associated minerals. GSL has constructed dikes and solar evaporative ponds on many of these lands and now desires to expand its solar ponding operations to cover other of its leased lands, pursuant to the leases. The leases in question are ML 24631 and ML 25859.

It is evident that Wildlife Resources opposes further development of state lands north of an East-West line separating Sections 24 and 25, Township 7 North, Ranges 3, 4, and 5 West, Salt Lake Base and Meridian. This opposition threatens GSL's proposed development under Leases ML 24631 and ML 25859.

Authority of Board of Wildlife Resources

The authority of the Wildlife Resources to manage or control the subject lands originates from statutory grant, given by the state legislature. The present form of the statute is found in Utah Code Ann. §23-21-5 (1953):

> "The wildlife board is authorized to use any and all unsurveyed state-owned lands below the 1855 meander line of the Great Salt Lake within the following townships for the creation, operation, maintenance and management of wildlife management areas, fishing waters and other recreational activities.
> . . . Township 7 North, Range 5 West, S.L.B. and M.; Township 7 North, Range 4 West, S.L.B. and M.; Township 7 North, Range 3 West, S.L.B. and M.; . . . ."

This statute was enacted in 1971 in the form stated above. It was amended in 1975 to include certain lands not pertinent

here. Though the statute was enacted in 1971, it has a predecessor statute known as Utah Code Ann. §23-8-1 (1953) which was referred to as such in a stipulation between Lithium Corporation of America and the State Land Board dated April 23, 1965.

This earlier statute was enacted in 1953. It stated:

> "The State Fish and Game Commission is authorized to use any and all of the unsurveyed state owned lands within the townships hereinafter described for the creation, operation, maintenance, and management of bird refuges, sanctuaries, public shooting grounds, fishing waters and other recreational activities:
> . . . Townships 7, 8, and 9 North, Range 2, 3, 4, and 5 West, S.L.B. and M.
> All unsurveyed lake bottom land which, if surveyed, would be described as follows: Parts of Sections 13, 24, 26, 27, and 21, all in Township 7 North, Range 3 West, S.L.B. and M., containing in all 1722.10 acres, more or less. Unsurveyed lake bed which, if surveyed, would be described as all of Sections 22, 23, and 14, Township 7 North, Range 3 West, S.L B. and M., containing 1920.00 more or less. . . ."

There is some question just what power Wildlife Resources is actually granted by the foregoing statutes. It is an open question whether the legislature intended that the lands could thereafter be used only for the purposes recited; however, it is probably true that Fish and Game was intended to have control of those lands to use them as it saw fit. Fish and Game held authority to use the lands for the purposes recited and it presumably determined that issuance of the leases and construction of ponding pursuant to the leases would not hinder the use of the lands for the purposes over which it held jurisdiction.

Several divisions of the Department of Natural Resources appear to have some authority over the subject lands. Wildlife Resources is clearly given the authority to "use" these particular lands for the purposes recited. However, the Board of State Lands is given by statute the authority to lease all state-owned lands (Utah Code Ann. §65-1-24 (1953)). Furthermore, another statute, Utah Code Ann. §65-8a-2 (1953) creates the Great Salt Lake Board and charges that Board with the purpose of "advising the Department on establishing and coordinating programs for the development of recreation areas, flood control, wildlife resources, industrial uses, and conservation of the Great Salt Lake."

It is clear that the Great Salt Lake Board has no real authority or veto power, but stands in an advisory capacity, as a (presumably) neutral arbiter to advise the Director of the Department of Natural Resources (presently Mr. Gordon E. Harmston). It appears that the Board of State Lands has the power to negotitate and enter into leases of state lands, but that, in the case of lands over which Wildlife Resources has a "use" authority, the Board of State Lands makes a custom of entering into leases only after Wildlife Resources has given its consent.

In the event of disagreement between the two boards, it is probably true that the Director, Mr. Harmston, would make a final decision. Whether one board has greater power over these lands than the other would be a legal issue to be determined by the Attorney General.

Lease Background

It appears that the principal leases having importance to the present problem are ML 24631 and 25859, both of which cover some lands north of the East-West "non-development" line. Neither of these leases stipulate, by their terms, that they are subject to approval of Wildlife Resources, though prior approval was obtained. With respect to lease ML 24631, we call your attention to correspondence (Att. E-1) from John E. Phelps, Director of the Department of Fish and Game (predecessor to Wildlife Resources), in which Mr. Phelps refers to the lease, describes the lands covered, and states: "The Division of Fish and Game would have no objections to the Board issuing this lease." The letter is dated September 19, 1967--the lease was issued October 2, 1967. We presume that the approval paved the way for the issuance of the lease.

The approval of the Fish and Game Division was more difficult to obtain for lease ML 25859. In that case, it appears that certain land exchanges were made by GSL in order to obtain Fish and Game approval. We call your attention to the Agreement (Att. F-1) dated November 6, 1968, (two weeks prior to issuance of the lease) between GSL and the Fish and Game. That agreement provides:

1. "Fish and Game does hereby consent to the issuance of a state mineral lease to GSL for the lands in Weber and Box Elder Counties, Utah, described in Schedule "A" hereto, containing 10,583 acres, more or less."

2. Upon issuance of the lease, containing 10,583 acres, GSL will relinquish to Fish and Game:

a. Lease application MLA 24881, containing 11,943 acres.

b. Portions of Lease ML 24189, said portions containing 5,440 acres.

c. Portions of Lease ML 21708, said portions containing 1,647 acres.

(The lands relinquished by GSL amounted to some 19,030 acres.)

3. Fish and Game grants to GSL a first right of refusal to lease on the relinquished lands.

4. GSL is granted an easement to cross over Fish and Game lands for purposes of access to GSL leased lands.

It is apparent from the titles of both leases that they are surface mineral leases for "mineral salts, chlorides, sulphates, carbonates, borates, silicates, oxides, nitrates, and associated minerals." Fish and Game was aware when it granted its approval for the issuance of those leases that the leases were intended to grant to GSL the right to construct appropriate solar vaporative ponding systems for the recovery of the minerals pted. It is difficult to conceive that Fish and Game's grant the right to issue the leases did not also grant the right to struct the ponding facilities.

We also call your attention to the fact that neither of the ovals granted by Fish and Game are subject to any future of Fish and Game to review or veto develop

GSL. The John E. Phelps letter of September 19, 1967 (Att. E-1), approving issuance of ML 24631 is a blanket approval. The Agreement of November 6, 1968 (Att. F-1), approving issuance of ML 25859 is also blanket. The stipulations of that agreement relate to the relinquishment of other GSL leased lands. No mention is made of any right of review by Fish and Game.

Yet correspondence from Fish and Game, and later from Wildlife Resources, indicates that its officers believe the Department holds a right of prior approval of expansion of GSL's solar ponding operations. This is apparent from a letter of October 23, 1969 (Att. C-3), from Fish and Game Director Phelps to Harold J. Andrews of GSL, the entirety of which reads:

> "This letter constitutes acceptance by the Utah State Division of Fish and Game of construction of solar evaporation ponds and related facilities installed on lands within State Leases ML 22782 and 25859 and approval for the Corporation's use and operation of the facilities in accordance with terms of these leases and agreements with this Division.
>
> This letter will also constitute approval, in principle, of the further expansion of ponding facilities within the boundaries of lease ML 25859, with the understanding, however, in accordance with our prior stipulation, dated April 23, 1965, that you will submit to this Division your detailed plans for further expansion on a project-by-project basis and await our approval of such plans before actually undertaking construction."

The confusion continues to as recently as July 17, 1980. On that date, Mr. Douglas F. Day, Director of the Division of Wildlife Resources (successor to the Fish and Game Department) wrote in a letter to Mr. Max J. Reynolds of GSL (Att. H-1) that (1) Wildlife Resources opposes development of state lands north

of the East-West dividing line "as we informed you as far back as April 14, 1965"; and (2) "the Division hereby gives approval for construction of the proposed pond(s) in parts of Sections 11, 12, 13, 14, 22, 23, 24, 26, and 27, T. 6 N., R. 5 W. . . . We should point out that this approval is granted in response to terms of the stipulation attached to Mineral Lease ML 22782. . . ."

The first statement above evidences confusion because, whether or not the Division opposes development north of the East-West dividing line, when it granted approval to issue the leases covering those lands, it also impliedly granted approval for the construction of ponding operations. The second statement is confusing because approval is given to construct ponds on lands covered by leases ML 19024, ML 19059, and ML 21708; however, the stipulation referred to (Att. C-1) pertains to none of those leases. We have reviewed that stipulation and it appears to pertain only to the lands covered by ML 22782.

It appears that the Wildlife Resources Division is either confused or that it is attempting to "bootstrap" its way into interpreting the ML 22782 Stipulation to apply to all GSL leases. From our review, it does not appear that the Stipulation applies to any lease other than ML 22782.

Lease ML 22782 was entered into on August 24, 1966, between the State Land Board and GSL. The Lease appears to be a reissuance of an earlier lease bearing the same number (ML 22782), issued to Lithium Corporation of America, and dated April 23, 1965. The stipulation was proposed by Fish and Game

in its letter (Att. C-5) dated April 14, 1965, to the State Land Board. The Land Board recites the Stipulation in the minutes of its meeting of April 23, 1965, approving issuance of Lease ML 22782 to Lithium Corporation (Att. C-2).

We attach a copy of the Stipulation hereto (Att. C-1). Basically, it provides that development will not be undertaken until Lithium Corporation has submitted detailed development plans and the Director of Fish and Game has approved the plans. We assume that the Stipulation also applies to GSL as successor to Lithium; however, it should be noted that our review of lease file ML 22782 at the Division of State Lands, indicates the file contains only the stipulation as signed by Lithium Corporation.

Nothing in the ML 22782 Stipulation appears to indicate that it applies to any leases other than ML 22782 or any lands other than those pertaining to ML 22782.

The July 17, 1980, letter of Douglas F. Day (Att. H-1) also refers to an agreement which took place in 1973 in which the Division approved development in certain areas after GSL agreed "to curtail some proposed expansion eastward and to prohibit the private use of its dikes for hunting or access to hunting."

We have reviewed a letter from John E. Phelps, of the Division of Wildlife Resources, to Harold Andrews, of GSL, dated May 17, 1973 (Att. F-11). That letter discusses a meeting of May 15, 1973, relating to expansion of GSL ponding systems under

Lease ML 25859 in Sections 17, 18, 19 and 20, Township 7 North, Range 3 West, and Sections 13, 14, 23, and 24, Township 7 North, Range 4 West, Salt Lake Base and Meridian.

The letter reminds GSL of Wildlife Resources' concern that pond development in sections 17 and 20 would disturb waterfowl use and that dike development by GSL would give an advantage to company guests and employees over other hunters. The letter confirms an agreement made at the meeting, which was that Wildlife Resources would consent to construction of ponds so long as: (1) about 600 acres of ponding in sections 17 and 20 (and as detailed on a rough map attached to the letter) be deleted from construction plans; and (2) GSL prohibit use of its private dikes for hunting access.

The letter of Mr. Day dated July 17, 1980, is correct in its reference to the agreement as one by which GSL would prohibit hunting from its dikes, but it does not appear from the documents we have reviewed that GSL agreed, or Wildlife Resources then understood itself to have extracted an agreement, not to fully develop its other lands (except for the 609 acres) or to submit to the Division of Wildlife Resources all its development plans under ML 24859 for approval or rejection, before development would be undertaken. We understand there is some present disagreement regarding the nature of the 1973 agreements; the 1973 letter seems clear and to the point. It should be noted that nothing in the letter indicates any concessions were made by Harold J. Andrews other than the two expressly stated in the letter.

Lease Terms

The terms of Leases ML 24631 (Att. E) and ML 25859 (Att. F) are substantially identical. Most of these terms are not germain to the issue whether the Division of Wildlife Resources has the right to preclude development on the subject lands. However, it would be well to point out certain lease provisions and their probable intended construction.

Article VIII relates to warranty of title. The lease provides that the state does not warrant that it has title and provides that it shall not be liable for damages. The lease then states that the lessee is not entitled to a refund of any rentals or royalties paid. This provision against liability probably applies only in the event of title failure. This provision should not be construed to mean that the state shall not be liable for damages for breach of contract or other matters unrelated to title.

Article XIII provides that nothing contained in the leases will be construed to be in derogation of applicable law or regulations and that the leases shall be deemed "amendable to reformation" to modify any portion found to contravene the law. Under this clause, it is possible that Wildlife Resources could argue that the issuance of the leases actually violated Utah Code Ann. §23-8-1 (or its successor, §23-21-5)(1953), supra. This appears unlikely, because those statutes gave Wildlife Resources the jurisdiction to "use" the subject lands. It appears from our review that Wildlife Resources or its

predecessor, Fish and Game, was consulted prior to issuance of the leases and granted its prior approval. In our opinion, this prior approval satisfied the requirements of the above statutes.

The introductory clauses to both leases also recite a condition attached to both leases:

> ". . . upon condition that at the end of each twenty (20) year period succeeding the first day of the year in which this lease is issued, such readjustment of terms and conditions may be made as the lessor may determine to be necessary in the interest of the State."

It is possible that, at the end of the twenty-year period (1987 for ML 24631, 1988 for ML 25859) the State could determine that the ponding facilities are not in the best interest of the State because of waterfowl interference and order that the leases be amended to withdraw some of the lands which GSL presently seeks to develop. But it is also possible that the development will be found to enhance waterfowl use and no attempt at readjustment of lease terms will be made. However, GSL would do well to consider this future possibility as it seeks to fully develop its leased lands and reach a settlement with the Division of Wildlife Resources.

Present Negotiations

While we have not been a party to ongoing negotiations with the Division of Wildlife Resources or the Department of Natural Resources over proposed ponding expansion, it appears that GSL has presented at least a general proposal for expansion to the Department and Wildlife Resources has opposed that proposal.

We have reviewed the inter-departmental memoranda of February 27, 1981, (Att. H-2)(from Stan Elmer) and of March 4, 1981, (Att. H-3)(from Temple Reynolds). It is apparent from the memorandum of Mr. Elmer that the Great Salt Lake Board's Comprehensive Plan would likely forbid expanded ponding unless GSL can persuade Wildlife Resources that waterfowl use would be enhanced, not destroyed. The fact remains that the leases pre-date the Comprehensive Plan and that, at the time the leases were issued, it appears that Fish and Game and the State Land Board had authority to veto issuance of those leases. Both bodies authorized issuance of the leases. Whether any arm of state government can now challenge the right of GSL to develop its leased lands pursuant to the authority granted by the leases is a question of law. Two areas of law are especially pertinent.

Law of Contract

It goes almost without saying that, absent special circumstances or agreements which we have not discovered, if the State of Utah, through the Board of Wildlife Resources, prevents development by GSL of the lands leased under ML 24631 and ML 25859, the state will be guilty of breach of contract under those leases.

In this regard, GSL can prove that it made an offer to lease the lands. The State made a counter-offer that 10,583 acres could be leased, but only if MLA 24881, covering 11,943 acres, be withdrawn and portions of ML 24189, covering 5,440 acres, and

portions of ML 21708, covering 1,647 acres, be relinquished to the state. GSL accepted the counter-offer, the agreement of relinquishment was memorialized in writing (Att. F-1) and accepted by the State Land Board (Att. F-6) and the lease, or contract, was issued (Att. F). To now prevent GSL's performance of the contract is a breach of that contract.

If the State breaches its contract, it should then be answerable to make payment of damages sustained by GSL or for specific performance of the contract, as a court of law may order.

Law of Estoppel

If Court intervention were necessary to resolve the dispute between GSL and Wildlife Resources, probably the most important legal doctrine to be argued by GSL would be that of estoppel. That is, the State of Utah should be estopped to prevent GSL from developing its lands because the state issued the leases with full knowledge of GSL's intention to use the leased lands for evaporative ponding operations and the State Fish and Game gave its approval. Since the leases were issued, GSL has paid rentals on the unused lands with the intention to develop the lands in the future. GSL has incurred substantial costs in the preparation of development plans and has made corporate decisions based on the likelihood of future development. In view of the reliance of GSL on the representations of the state when the leases were issued, the state should not now be permitted to prevent development.

The doctrine of estoppel provides that one who makes a representation to another, who reasonably relies on that representation to his detriment, is estopped to deny the truth of the representation or to gain by taking a position inconsistent with that representation. This doctrine has long been applied between private parties, but the courts have historically held that estoppel does not apply to federal or state governments. In early decisions, this position was routinely adopted by the courts even under circumstances where grave injustice resulted.

The recent trend of the law, however, is that equitable estoppel does apply against governmental entities. The 1976 Supplement to the Davis, Administrative Law Treatise points out that in the 1958 Treatise it was stated that the courts usually hold that the doctrine of estoppel does not apply to the government, but that now "the opposite of that statement now has almost uniform support of decisions of the 1970s: the doctrine of equitable estoppel does apply to the government."

One significant limitation on the application of the estoppel doctrine to governments is that the estoppel must not unduly damage the public interest. Here again, it is possible that GSL may have to prove, sooner or later, that expansion of its ponding facilities will not injure waterfowl habitat or use.

The state should also be estopped because it, in the form of the State Land Board, accepted GSL rental funds and benefitted

thereby. Generally, one who knowingly accepts the benefits of a contract is estopped to deny the validity or binding effect on him of such contract. 28 Am. Jur. 2d, Estoppel and Waiver, §59.

Summary and Conclusion

The principal leases under discussion here are ML 24631 and ML 25859. These leases are substantially indentical in content. Both these leases cover certain lands lying north of the East-West dividing line beyond which Wildlife Resources opposes ponding development.

It appears that, at the time the leases were issued, the legislature had granted to the State Fish and Game Commission the authority to use the state lands covered under these leases "for the creation, operation, maintenance and management of bird refuges, sanctuaries, public shooting grounds, fishing waters and other recreational activities." Fish and Game evidently reviewed the proposed lease applications and gave its permission to issue the leases after determining that ponding pursuant to those lease would not hinder the realistic use of the lands for the statutory purposes. It should be noted that Fish and Game gave its permission on Lease ML 25859 only after GSL made considerable concessions of some 19,000 acres of lands under lease and lease application.

In 1973 negotiations were again undertaken between GSL and Wildlife Resources, successor to Fish and Game. In those negotiations, GSL appears to have relinquished its right to

construct solar ponding on some 600 acres and agreed to prohibit hunting or access to hunting from its dikes as a courtesy to Wildlife Resources.

Nothing in the leases or the approval letters and agreements signed by Fish and Game when these leases were issued indicates that the leases could be issued but that construction of pond facilities on the leased lands would be subject to Fish and Game approval. Yet Wildlife Resources seems to believe it continues to hold such a veto power. It appears that Wildlife Resources may have confused its right to prior approval under the stipulation attached to Lease ML 22782 to apply also to the leases in question here. It is also possible that Wildlife Resources is aware that it has no veto power over development of these lands, but is trying to bootstrap its way toward such power. GSL has submitted development plans to Fish and Game or Wildlife Resources even where not specifically required to, solely as a matter of courtesy. Wildlife Resources may need to be reminded that it has received the plans for expansion of ML 24631 and ML 25859 solely as a courtesy and that suggestions of Wildlife Resources will be considered, but are not binding.

We believe that if this matter were to mature to the point of litigation, GSL would have strong arguments that: (1) the State of Utah is guilty of breach of contract and should be ordered to specifically perform its contract by permitting GSL to develop the lands, or, alternatively, ordered to pay damages to GSL; and (2) the Wildlife Board should be estopped to deny

that it or its predecessor, Fish and Game, granted approval to issue the leases. The State of Utah should not now be permitted to change its position as to development of these lands. The leases were issued only after considerable concessions were extracted from GSL; furthermore, GSL has expended considerable money for rentals and planning in reliance on the contractual representations of the state.

We believe that GSL should make every effort to resolve this matter without resort to litigation. In its meetings with the Department of Natural Resources, GSL should point out that (1) the stipulation of prior approval by Wildlife Resources does not apply to these lands; (2) that Fish and Game gave its approval to issue the leases; (3) that GSL relinquished to Fish and Game some 19,000 acres of lands in 1968 in exchange for issuance or Lease ML 25859; and (4) that substantial detriment to GSL will occur if it is not allowed to rely on the contractual promises of the state.

It would be well for the Department of Natural Resources to have these facts and arguments in writing; a copy of this letter would not be appropriate, but we would be happy to prepare such a letter, if you desire.

Because the "political" resolution of the problem in GSL's favor is likely to be facilitated if a waterfowl biologist can be retained who can testify that expansion of GSL's solar ponding will enhance waterfowl use, we recommend that such a biologist be found.

Another argument which we are sure you have made in your presentations and which is commonly ignored by conservationists is that minerals are taking a more strategic role in the U.S. economy. Various authorities have cautioned that far too great a quantity of the raw minerals used in the U.S. economy are imported. In this regard, we enclose a copy of the recent speech of Rep. James D. Santini (Democrat, Nevada) before the American Mining Congress (Att. I). Please see especially the section entitled "The Role of Minerals in the U.S. Ecomony." The text is copied from the October, 1980, American Mining Congress Journal.

I have noted the 10:30 a.m. meeting on Thursday, April 16, 1981, between GSL and the Department of Natural Resources. I would be happy to attend that meeting if GSL so desires.

Very truly yours,

NIELSEN & SENIOR

Thomas L. Monson.

Thomas L. Monson

TLM/cw

enclosures
cc: Raymond T. Senior